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Attendance Division

COMPULSORY EDUCATION

Article 23 of the Education Law known as the Compulsory Education Law (L. 1910, ch. 140, as amended by L. 1911, ch. 710; L. 1913, chs. 101, 511, 748; L. 1917, ch. 563; L. 1918, ch. 415; as amended by L. 1919, ch. 232).

Article 22 of the Education Law known as the Continuation School Law (as amended by L. 1919, ch. 531).

COMPULSORY EDUCATION

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§ 620 Instruction required. The instruction required under this article shall be:

¹ So in original.

1 At a public school in which at least the six common school branches of reading, spelling, writing, arithmetic, English language and geography are taught in English.

2 Elsewhere than a public school upon instruction in the same subjects taught in English by a competent teacher.

§ 621 Required attendance upon instruction. 1 Every child within the compulsory school ages, in proper physical and mental condition to attend school, residing in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall regularly attend upon instruction as follows:

a Each child between seven and fourteen years of age shall attend the entire time during which the school attended is in session, which period shall not be less than one hundred and eighty days of actual school.

b Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service, and to whom an employment certificate has not been duly issued under the provisions of the labor law, shall so attend the entire time during which the school attended is in session. [*Subdivision amended by L. 1917, ch. 563.*]

2 Every such child, residing elsewhere than in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall attend upon instruction during the entire time that the school in the district shall be in session, as follows:

a Each child between eight and fourteen years of age.

b Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service. [*Subdivision amended by L. 1913, ch. 511.*]

3 The provisions of this section are intended to include all blind children, except such as may receive appointments under the provisions of article thirty-eight of this chapter. [*Amended by L. 1911, ch. 710.*]

4 A child within the prescribed ages as provided by this section shall be deemed in proper physical and mental condition to attend upon instruction unless a certificate shall have been issued by the school authorities that the child is not in proper physical and mental condition to so attend. No physical condition which is capable of correction shall avail as a defense under the provisions of this article unless it shall be made to appear that all reasonable measures of the correction of the condition and the

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suitable instruction of the child have been taken. [Added by L. 1919, ch. 232.]

§ 622 When a boy is required to attend evening school. [Section repealed by L. 1919, ch. 531 (known as the Continuation School Law) in effect August 1, 1919.]

§ 623 Instruction elsewhere than at a public school. If any such child shall so attend upon instruction elsewhere than at a public school, such instruction shall be at least substantially equivalent to the instruction given children of like age at the public school of the city or district in which such child resides; and such attendance shall be for at least as many hours each day thereof as are required of children of like age at public schools; and no greater total amount of holidays or vacations shall be deducted from such attendance during the period such attendance is required than is allowed in such public school to children of like age. Occasional absences from such attendance, not amounting to irregular attendance in the fair meaning of the term, shall be allowed upon such excuses only as would be allowed in like cases by the general rules and practice of such public school.

If a child required to attend upon instruction as provided in this article does not attend at a public, private or parochial school maintained in the city or district in which the parent or guardian of said child resides, such parent or guardian shall upon request furnish satisfactory proof to the local school authorities of said city or district that said child or ward is attending upon lawful instruction elsewhere. [Amended by L. 1917, ch. 563.]

§ 624 Duties of persons in parental relation to children. Every person in parental relation to a child within the compulsory school ages and in proper physical and mental condition to attend school, shall cause such child to attend upon instruction, as follows:

1 In cities and school districts having a population of five thousand or above, every child between seven and sixteen years of age as required by section six hundred and twenty-one of this act unless an employment certificate shall have been duly issued to such child under the provisions of the labor law and he is regularly employed thereunder.

2 Elsewhere than in a city or school district having a population of five thousand or above, every child between eight and sixteen years of age, unless such child shall have received an employment certificate duly issued under the provisions of the

labor law and is regularly employed thereunder in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, or unless such child shall have received the school record certificate issued under section six hundred and thirty of this act and is regularly employed elsewhere than in the factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages.

§ 625 **Penalty for failure to perform parental duty.** A violation of section six hundred and twenty-four shall be a misdemeanor, punishable for the first offense by a fine of not exceeding five dollars, or five days' imprisonment, and for each subsequent offense by a fine of not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Courts of special session and police magistrates shall, subject to removal as provided in sections fifty-seven and fifty-eight of the Code of Criminal Procedure, have exclusive jurisdiction in the first instance to hear, try and determine charges of violations of this section within their respective jurisdictions. A duly attested transcript of the record of attendance and absence of a child which has been kept by a teacher, as provided in section 629 of this chapter, shall be accepted as presumptive evidence of the attendance of such child in any proceeding brought under the provisions of this article. [*Amended by L. 1919, ch. 232.*]

§ 626 **Unlawful employment of children and penalty therefor.** It shall be unlawful for any person, firm or corporation:

1 To employ¹ any child under fourteen years of age, in any business or service whatever, for any part of the term during which the public schools of the district or city in which the child resides are in session.

2 To employ, elsewhere than in a city of the first class or a city of the second class, in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, any child between fourteen and sixteen years of age who does not at the time of such employment present an employment certificate duly issued under the provisions of the labor law, or to employ any such child in any other capacity who does not at the time of such employment present a school record certificate as provided in section six hundred and thirty of this chapter.

¹ So in original.

3 To employ any child between fourteen and sixteen years of age in a city of the first class or a city of the second class who does not, at the time of such employment, present an employment certificate, duly issued under the provisions of the labor law.

§ 627 **Employer must display record certificate and evening, part-time or continuation school certificate.** The employer of any child between fourteen and sixteen years of age in a city or district shall keep and shall display in the place where such child is employed, the employment certificate and also his evening, part-time or continuation school certificate issued by the school authorities of said city or district or by an authorized representative of such school authorities, certifying that the said child is regularly in attendance at an evening, part-time or continuation school of said city as provided in section six hundred and thirty-one of this chapter. [*Amended by L. 1913, ch. 748.*]

§ 628 **Punishment for unlawful employment of children.** Any person, firm, or corporation, or any officer, manager, superintendent or employee acting therefor, who shall employ any child contrary to the provisions of sections six hundred and twenty-six and six hundred and twenty-seven hereof, shall be guilty of a misdemeanor and the punishment therefor shall be for the first offense a fine of not less than twenty dollars nor more than fifty dollars; for a second and each subsequent offense, a fine of not less than fifty dollars nor more than two hundred dollars. [*Amended by L. 1913, ch. 748.*]

§ 629 **Teachers must keep record of attendance.** An accurate record of the attendance of all children between seven and sixteen years of age shall be kept by the teacher of every school, showing each day by the year, month, day of the month and day of the week, such attendance, and the number of hours in each day thereof; and each teacher upon whose instruction any such child shall attend elsewhere than at school, shall keep a like record of such attendance. Such record shall, at all times, be open to the attendance officers or other persons duly authorized by the school authorities of the city or district, who may inspect or copy the same; and every such teacher shall fully answer all inquiries lawfully made by such authorities, inspectors, or other persons, and a wilful neglect or refusal so to answer any such inquiry shall be a misdemeanor.

§ 630 **School record certificate.** 1 A school record certificate shall contain a statement certifying that a child has regularly

attended the public schools, or schools equivalent thereto, or parochial schools, for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday or during the twelve months next preceding his application for such school record, and has completed the work in reading, writing, spelling, arithmetic, English language and geography, in English, prescribed for the first six years of the public elementary school or parochial school or school of equal rank maintaining an equivalent course of study in which the branches specified in subdivision one of section six hundred and twenty of this chapter are taught in English. Such record shall also give the date of birth and residence of the child, as shown on the school records, and the name of the child's parents, guardian or custodian. Such school record certificate shall be in the form prescribed or approved by the Commissioner of Education.

No school record certificate shall be issued to any child under fifteen years of age for the purpose of obtaining an employment certificate, unless such child at the age of fourteen is a graduate of a public elementary school or parochial school or a school of equal rank maintaining an equivalent course of study in which the branches specified in subdivision one of section six hundred and twenty of this chapter are taught in English; or holds a pre-academic certificate issued by the Regents, or a certificate of the completion of an elementary course issued by the State Education Department. [*Amended by L. 1913, ch. 101, and L. 1917, ch. 563.*]

2 A teacher or superintendent to whom application shall be made for a school record certificate required under the provisions of the labor law shall issue a school record certificate to any child who, after due investigation and examination, may be found to be entitled to the same as follows:

a In a city of the first class by the principal or chief executive of a school.

b In all other cities and in school districts having a population of five thousand or more and employing a superintendent of schools, by the superintendent of schools only.

c In all other school districts by the principal teacher of the school.

d In each city or school district such certificate shall be furnished on demand to a child entitled thereto or to the board or commissioner of health.

§ 631 **Evening, part-time or continuation school certificate.** The school authorities in a city or district, or officers designated by them, are hereby required to issue to each child lawfully in attendance at an evening, part-time or continuation school, an evening, part-time or continuation school certificate at least once in each month during the months said evening, part-time or continuation school is in session and at the close of the term of said evening, part-time or continuation school, provided that said child has been in attendance upon said evening school, for not less than six hours each week or upon said part-time or continuation school for not less than four hours each week, for such number of weeks as will, when taken in connection with the number of weeks such evening, part-time or continuation school respectively, shall be in session during the remainder of the current or calendar year, make up a total attendance on the part of said child in said evening school, of not less than six hours per week for a period of not less than sixteen weeks or in said part-time or continuation school, of not less than four hours per week for a period of not less than thirty-six weeks. Such certificate shall state fully the period of time which the child to whom it is issued was in attendance upon such evening, part-time or continuation school. [*Amended by L. 1913, ch. 748.*]

§ 632 **Attendance officers.** 1 The school authorities of each city, union free school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove at pleasure one or more attendance officers of such city or district, and shall fix their compensation and may prescribe their duties not inconsistent with this article and make rules and regulations for the performance thereof; and the superintendent of schools shall supervise the enforcement of this article within such city or school district.

2 The town board of each town shall appoint, subject to the written approval of the school commissioner (district superintendent) of the district, one or more attendance officers, whose jurisdiction shall extend over all school districts in said town, and which are not by this section otherwise provided for, and shall fix their compensation, which shall be a town charge; and such attendance officers, appointed by said board, shall be removable at the pleasure of the school commissioner (district superintendent) in whose commissioner (supervisory) district such town is situated.

§ 633 **Arrest of truants.** 1 The attendance officer may arrest without a warrant any child between seven and sixteen years of age who is a truant from instruction upon which he is lawfully required to attend within the city or district of such attendance officer. He shall forthwith deliver the child so arrested to a teacher from whom such child is then a truant, or, in case of habitual and incorrigible truants, shall bring them before a police magistrate for commitment to a truant school as provided in section six hundred and thirty-five.

2 The attendance officer shall promptly report such arrest and the disposition which he makes of such child, to the school authorities of the said city or district where such child is lawfully required to attend upon instruction.

3 A truant officer in the performance of his duties may enter, during business hours, any factory, mercantile or other establishment within the city or school district in which he is appointed and shall be entitled to examine employment certificates or registry of children employed therein on demand.

§ 634 **Interference with attendance officer.** Any person interfering with an attendance officer in the lawful discharge of his duties and any person owning or operating a factory, mercantile or other establishment who shall refuse on demand to exhibit to such attendance officer the registry of the children employed or the employment certificate of such children shall be guilty of a misdemeanor.

§ 635 **Truant schools.** 1 The school authorities of any city or school district may establish schools, or set apart separate rooms in public school buildings, for children between seven and sixteen years of age, who are habitual truants from instruction upon which they are lawfully required to attend, or who are insubordinate or disorderly during their attendance upon such instruction, or irregular in such attendance. Such school or room shall be known as a truant school; but no person convicted of crimes or misdemeanors other than truancy, shall be committed thereto.

2 School authorities may provide for the confinement, maintenance and instruction of any child who is an habitual truant from instruction upon which he is lawfully required to attend, or is insubordinate or disorderly during attendance upon such instruction, or is irregular in such attendance in such schools; and they or the superintendent of schools in any city or school district, may, after reasonable notice to such child and the persons

in parental relation to such child, and an opportunity for them to be heard, and with the consent in writing of the persons in parental relation to such child, order such child to attend such school, or to be confined and maintained therein, under such rules and regulations as such authorities may prescribe, for a period not exceeding two years; but in no case shall a child be so confined after he is sixteen years of age. [*Subdivision amended by L. 1917, ch. 563.*]

3 Such authorities may order such a child to be confined and maintained during such period in any private school, orphans' home or similar institution controlled by persons of the same religious faith as the persons in parental relation to such child, and which is willing and able to receive, confine and maintain such child, upon such terms as to compensation as may be agreed upon between such authorities and such private school, orphans' home or similar institution.

4 If the person in parental relation to such child shall not consent to either of such orders said persons shall be proceeded against in court under section six hundred and twenty-five of this chapter by the school authorities or such officer as they may designate. In case the person in parental relation to such child establishes to the satisfaction of the court that such child is beyond his control such child shall be proceeded against as a disorderly person, and upon conviction thereof, if the child was lawfully required to attend a public school, the child shall be sentenced to be confined and maintained in such truant school for a period not exceeding two years; or if such child was lawfully required to attend upon instruction otherwise than at a public school, the child may be sentenced to be confined and maintained for a period not exceeding two years in such private school, orphans' home or other similar institutions, if there be one, controlled by persons of the same religious faith as the persons in parental relation to such child, which is willing and able to receive, confine and maintain such child for a reasonable compensation. Such confinement shall be conducted with a view to the improvement and to the restoration, as soon as practicable, of such child to the institution elsewhere, upon which he may be lawfully required to attend.

4-a An habitual truant and a child who, being subject to the provisions of this article, has been lawfully suspended or expelled from school, and is not receiving equivalent instruction elsewhere, as provided by section six hundred and twenty-three of this chapter, are hereby declared to be ungovernable children. Any such

child may be apprehended by a truant officer of the school district or city where the child resides, or by any peace officer, and brought before a police magistrate having jurisdiction. Notice shall thereupon be given to the child's parent, guardian, or other person standing in parental relation to the child, and upon the submission of satisfactory proof that the child is an habitual truant or that, being subject to this article, he has been lawfully suspended or expelled from school and is not receiving instruction elsewhere, the magistrate may commit such child to a truant school maintained by such district or city, or, if no such truant school is maintained, to a private school, orphans' home or other similar institution if there be one, controlled by persons of the same religious faith as the persons in parental relation to such child, which is willing and able to receive, confine and maintain such child for a reasonable compensation. [*Subdivision added by L. 1917, ch. 563.*]

5 The authorities committing any such child, and in cities and districts having a superintendent of schools such superintendent shall have authority, in his discretion, to parole at any time any truant so committed by them.

6 Every child lawfully suspended from attendance upon instruction for more than one week, shall be required to attend such truant school during the period of such suspension.

7 The school authorities of any city or school district, not having a truant school, may contract with any other city or district having a truant school, for the confinement, maintenance and instruction therein of children whom such school authorities might require to attend a truant school, if there were one in their own city or district.

8 Industrial training shall be furnished in every such truant school.

9 The expense attending the commitment and cost of maintenance of any truant residing in any city, or district, employing a superintendent of schools shall be a charge against such city, or district, and in all other cases shall be a county charge.

§ 636 **Enforcement of law and withholding the State moneys by Commissioner of Education.** 1 The Commissioner of Education shall supervise the enforcement of this law and he may withhold one half of all public school moneys from any city or district, which, in his judgment, wilfully omits and refuses to enforce the provisions of this article, after due notice, so often and so long as such wilful omission and refusal shall, in his judgment, continue.

2 If the provisions of this article are complied with at any time within one year from the date on which said moneys were withheld, the moneys so withheld shall be paid over by said Commissioner of Education to such district or city, otherwise forfeited to the State.

§ 637 **Attendance of illiterate minors.** 1 Every minor, between sixteen and twenty-one years of age, who does not possess such ability to speak, read and write the English language, as is required, for the completion of the fifth grade of the public or private schools of the city or school district in which he resides, shall attend some day or evening school or some school maintained by an employer as hereinafter provided in subdivision 6 of this act, in the city or district in which he resides throughout the entire time such school is in session; provided that no such minor be required to attend, if the Commissioner of Health, or the executive officer of the board or department of health of the city, town, village or district, where such minor resides, or an officer thereof designated by such board, department or commissioner shall deem such minor to be physically or mentally unfit to attend.

2 Any minor subject to the provisions of this section, who wilfully violates any provisions of this section, shall be punished by a fine of not exceeding five dollars.

3 Every person having in his control any minor subject to the provisions of this section shall cause such minor to attend a school as hereby required; and if such person fails for six sessions within a period of one month to cause such minor to so attend school, unless the Commissioner of Health or the executive officer of the board or department of health of the city, town, village or district where such minor resides or an officer thereof designated by such board, department or commissioner shall certify that such minor's physical or mental condition is such as to render his attendance at school harmful or impracticable, such person shall, upon complaint by a truant officer and conviction thereof, be punished by a fine of not more than twenty dollars.

4 Whoever induces or attempts to induce such minor to absent himself unlawfully from school or employs such minor except as is provided by law, or harbors such who, while school is in session, is absent unlawfully therefrom, shall be punished by a fine of not more than fifty dollars.

5 The employer of any minor subject to the provisions of this section shall procure from such minor and display in the place

where such minor is employed the weekly record of regular attendance upon a school and it shall be unlawful for any person to employ any minor subject to the provisions of this section until and unless he procures and displays said weekly record as herein provided. It shall be the duty of the teacher or principal of the school upon which he (such minor) attends to provide each week such minor with a true record of attendance.

6 Any employer may meet the requirements of this act by conducting a class or classes for teaching English and civics to foreign-born in shop, store, plant or factory, under the supervision of the local school authorities, and any minor subject to the provisions of this act may satisfy the requirement by attendance upon such classes.

§ 638 **Certificates of principals or teachers.** Certificates issued by any principal or teacher of schools as to the attendance or nonattendance of any person who should attend such school shall be presumptive evidence of the facts therein stated. [*Added by L. 1919, ch. 303.*]

Note. Schools are to be in session for at least 180 days beginning on the first Tuesday of September. It is provided by section 492 of the Education Law, as amended by Laws of 1913, chapter 511, that all schools shall be in session for 180 days, to entitle districts to full apportionments of public moneys, and that "in common school districts the term of school shall begin each year on the first Tuesday of September."

Note. Since the following provisions of Article 22 of the school law are *compulsory and mandatory*, the same are included herein below.

Article 22

Section 601 Part-time or continuation schools shall be established in cities and school districts.

d The board of education of each city and of each such school district¹ shall make necessary arrangements to begin to operate and maintain such part-time or continuation schools or classes, on the opening of the public schools in September 1920, and shall annually thereafter in September open and maintain additional schools and classes so that by the opening of the public schools in September 1925, a sufficient number of such schools shall have been established as to afford the required instruction under this article to those minors who are required to attend such schools or classes.

¹ School district having a population of 5000 or more inhabitants.

e Each minor under the age of eighteen years, who is not in regular attendance upon a public, private or parochial school or who is regularly and lawfully employed in some occupation or service, unless such minor has completed a four-year secondary course of instruction approved by the Regents of the University, shall attend a part-time or continuation school or class in the city or district in which such minor resides or may be employed. Such attendance shall be for not less than four hours per week and not more than eight hours per week for each week which such school or class is in session except that the school authorities may, subject to the approval of the Commissioner of Education, permit any such minor to increase the number of hours per week of required attendance and decrease the number of weeks of required attendance. Such minor who is temporarily out of regular employment or service shall attend such school not less than twenty hours per week. The attendance upon a part-time or continuation school or class shall be between the hours of eight o'clock forenoon and five o'clock afternoon.

h The parent, guardian or other person having the custody or control of a minor who is required under the provisions of this article to attend a part-time or continuation school or class shall cause such minor to attend such school or class. A parent, guardian or other person who refuses or fails to comply with this provision of the law shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one hundred dollars or by imprisonment for not more than ten days, or both such fine and imprisonment at the discretion of the court. Any minor under sixteen years of age who fails to attend upon instruction as defined by this article shall be subject to the provisions of section 635 of the Education Law, and a minor over sixteen years of age who fails to attend upon instruction as required by this act may be punished for any such violation by a fine not exceeding ten dollars, or by imprisonment for not more than ten days, or by both such fine and imprisonment.

i Any person, firm or corporation employing a minor between the ages of fourteen years and eighteen years shall permit the attendance of such minor upon a part-time school or class whenever such part-time school or class shall have been established in the city or district where the minor resides or may be employed, and upon the termination of employment of any such minor the employer shall return within three days the employment certifi-

cate of such minor by mail to the school authorities, and a person, firm or corporation employing a minor over fourteen years of age and less than eighteen years of age contrary to the provisions of this article shall be subject to a fine of not less than twenty-five dollars and not more than one hundred dollars for each offense or by imprisonment in the city or county jail for not less than five days and not more than ten days, or by such fine and imprisonment at the discretion of the court. A person, firm or corporation, which has in its employ a minor who fails to attend a part-time or continuation school or class as required herein, shall immediately discontinue the services of such minor upon receiving from the school authorities written notice of the failure of such minor to attend such part-time or continuation school or class, and a person, firm or corporation violating this provision of law shall be subject to a fine of fifty dollars for each offense.

j The board of education of each city or district having a population of five thousand or more inhabitants is hereby required to enforce the provisions of this law and the Commissioner of Education is hereby charged with the duty and vested with necessary authority to supervise the enforcement and administration of this act. [*Amended by L. 1919, ch. 531.*]

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